



# **Fair Housing Act Advertising Guide Book**

## ICRC'S MISSION

Fair Housing is based on the premise that housing should be a free choice. The mission of the ICRC's real estate unit is to investigate complaints that allege denial of equal housing opportunities based on race, color, religion, national origin, gender, familial status or disability. These investigations may include on-site visits to the property in question as well as witness interviews and the examination of relevant documents. The ICRC prosecutes complaints in a state court or before an administrative tribunal when it determines that there is reasonable cause to believe that discrimination has occurred.

The ICRC has found that public education concerning legal rights and responsibilities is also an essential element needed to reduce discriminatory housing practices. Accordingly, this booklet has been created to assist those who use advertising, with respect to the sale, rental or financing of a dwelling, to do so without indicating discriminatory preferences or limitations.

## FAIR HOUSING: IT'S THE LAW



The IFHA was passed in 1991, bringing Indiana law in substantial conformity with the federal Fair Housing Act, which was passed by Congress in 1968, and amended in 1988.

The IFHA states that it is illegal to discriminate in the sale, rental, or financing of housing or in the provision of brokerage and appraisal services because of race, color, religion, gender, disability, national origin, or familial status.

Regulation promulgated by the United States Department of Housing and Urban Development (HUD) and the ICRC both state that any media organization used to disseminate housing advertising should do the following:

- Develop a nondiscriminatory advertising policy;
- Provide a printed copy of such policy to each

employee and officer;

- Post such policy in a conspicuous place;
- Provide copies of such policy to everyone who advertises; and
- Include at the beginning of each real estate ad section a fair housing publisher's notice. The following are illustrations of a publisher's notice:

*"All real estate advertised herein is subject to the Federal Fair Housing Act, which makes it illegal to advertise any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, or national origin or intention to make any such preference, limitation, or discrimination."*

*"We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis."*

Note that advertising published in jurisdictions having more restrictive requirements should comply also with local criteria.

## COVERAGE OF THE IFHA

The IFHA prohibits discrimination in the sale or rental of a dwelling. A "dwelling" is broadly defined as any building, structure, or part of a building or structure that is occupied as, or intended for occupancy as, a residency by one or more families. A dwelling also includes any vacant land that is offered for sale or lease for the construction or location of a building or structure.

Housing discrimination can be manifested in many different forms. While this booklet focuses on discriminatory advertising, the following are also prohibited practices:

- Discriminatory Sale or Leasing Practices. Property owners and managers may not discriminate in the

rental or sale of property on the basis of a prospective homebuyer or tenant's race, color, national origin, religion, gender, disability, or familial status.

- **Steering.** Real estate and leasing agents may not discourage a prospective homebuyer or tenant from seeing or selecting certain properties because of the racial or religious composition of the neighborhoods in which they are located.
- **Blockbusting.** It is against the law to pressure individuals into selling their home because members or groups of another race, color, religion or national origin have moved into or are moving into a particular neighborhood.
- **False Denial of Availability.** Informing a prospective homebuyer or tenant that a particular property is not available, when it is in fact available, is a violation of fair housing laws.
- **Financing Discrimination.** Lending institutions may not deny loans or other lending services on the basis of race, color, religion, gender, disability, national origin, or familial status.
- **Redlining.** It is illegal to deny, limit or impose different terms on mortgage loans or insurance coverage because of the racial or ethnic make-up of the neighborhood in which a particular property is located.



be met for this exemption to apply. For example, facilities and services must be designed to meet the needs of older persons, and at least 80 percent of the occupied units must have at least one person aged 55 or older.

- Private clubs may give preference to their members.
- Religious organizations may limit sales or rentals, for other than a commercial purpose, to persons of the same religion.
- Individuals owning no more than three single family homes and selling or renting a home without the use of a real estate broker or discriminatory advertising. This exemption applies to only one sale per 24-month period.
- The rental of rooms in a property occupied by no more than four families, one of whom must be the owner of the property.

It is important to note that some transaction exempted from the IFHA may be prohibited by the Indiana Civil Rights Law, I.C. 22-9-1-1 et seq., which, among other things, mandates the provision of all of its citizens an equal opportunity to purchase or rent real property. Therefore, an attorney should be consulted before relying upon any exemption to the IFHA.

## EXEMPTIONS

There are certain exemptions to the IFHA. Described briefly, those exemptions are as follows:

- **Housing for Older Persons.** This exemption includes:

Housing provided under any state or federal program that HUD determines is specifically designed and operated to assist elderly persons.

Housing intended for and solely occupied by people aged 62 or older.

Housing intended for occupancy solely by at least one person aged 55 or older. Certain qualifications must

## ADVERTISING DISCRIMINATION

Commercial advertisements for homes or apartments may not indicate a preference for renters or homeowners of a certain race, color, religion, gender, disability, national origin, or familial status.

## WHAT IS PROHIBITED?

### SELECTIVE ADVERTISING

Selectively targeting advertisements to certain geographic areas or selectively distributing advertisements that only reach one segment of the community's population may be discriminatory.

Discriminatory advertising may be avoided by uniformly placing advertisements in all geographic areas and segments of the community in which the particular dwelling is located.

Under certain circumstances targeting home-seekers through strategic placement of advertisements may be permissible, especially where advertisers want to place advertising in selected editions or locations for economic reasons. But, an advertiser may not consider the protected status of the likely recipients in selecting an advertising venue. Fair housing laws also prohibit selective advertising where the selection of venue has the effect of discriminating based on the protected status of the recipients or non-recipients of the advertising.

Fair housing law does not prohibit designing advertising to attract persons to properties who would not ordinarily be expected to apply, when such efforts are undertaken according to an affirmative marketing plan or undertaken to remedy the effects of prior discrimination in connection with advertising or marketing.

#### USE OF SELECTIVE IMAGES

Human models in photographs, drawings or other graphic display may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, or national origin. Therefore, selectively using models of a particular race, national origin or gender, or displaying only adults in advertising campaigns may violate fair housing laws. Discriminatory advertising may also include the selective use of racially mixed models to advertise in one development and not in others. Ads should be created to cover a broad range of people by using both male and female models, representatives from both majority and minority groups including the disabled, and when applicable, families with children.



#### SELECTIVE USE OF THE EQUAL OPPORTUNITY STATEMENT OR SLOGAN



Advertising of residential real estate should uniformly contain an equal housing opportunity logotype, statement or slogan as a means of educating prospective buyers or tenants that the property is available to all persons regardless of race, color, religion, sex, disability, familial status, or national origin. The selective use of the equal opportunity slogan or logotype used in advertisements that reach some geographic areas while not using the slogan or logotype in other areas may be a discriminatory practice.

Sample Equal Housing Opportunity Statement:

*"We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin."*

Sample Equal Housing Opportunity Slogan:

**"Equal Housing Opportunity"**

#### ADVERTISEMENTS CONTAINING DIRECTIONS OR REFERENCES THAT MAY IMPLY A DISCRIMINATORY PREFERENCE

Directions or references to a real estate location made in terms of significant racially or religiously identifiable landmarks may indicate a discriminatory preference or limitation. For example, identifying a parish, church or synagogue in directions to the property may intentionally or unintentionally exclude members of certain races or religions.

Advertising that references facilities which cater to a particular racial, ethnic or religious group, or a specific gender, such as a country club or private school, may indicate an illegal preference.

**PREFERENTIAL OR EXCLUSIONARY WORDS, PHRASES AND SYMBOLS**

Words, phrases and symbols used in residential real estate advertising that convey an overt or subtle discriminatory preference or limitation should be avoided. Descriptions should reference the property and not the neighbors, property manager or residents.

Words indicative of race should be avoided, including, but not limited to:

- African-American
- Black
- Oriental
- Negro
- Caucasian
- American Indian

Words indicative of color should be avoided, including but not limited to:

- White
- Colored
- Black

Words indicative of religion should be avoided, including, but not limited to:

- Protestant
- Catholic
- Christian
- Jew

Words indicative of national origin should be avoided, including, but not limited to:

- Mexican American
- Philippine
- Hungarian
- Italian
- African
- Chinese
- Latino
- Puerto Rican
- Polish
- Irish
- Chicano
- Hispanic
- Indian

Words indicative of gender should be avoided, except where sharing living areas is involved, or where a dwelling is used exclusively for dormitory facilities by education institutions.

Words indicative of disability should be avoided, including, but not limited to:

- Crippled
- Deaf
- Mentally Retarded
- Handicapped
- Blind
- Mentally Ill
- Impaired
- Physically Fit

Words indicative of familial status should be avoided, including, but not limited to:

- Adults
- Singles
- Children
- Mature Persons

Words such as the following used in a discriminatory context should be avoided, such as:

- Restricted
- Private
- Traditional
- Membership approval
- Exclusive
- Integrated
- Board approval

Any regional words or phrases which imply or suggest a preference for a certain race, color, gender, religion, disability, national origin or familial status should be avoided.

The following is a list of words and phrases to avoid, but it is not an exhaustive list:

QUESTIONABLE	PREFERRED
Apartment ideal for single persons	Small quiet home
Adult apartment complex	Single family homes
Neighborhood for Professionals	Luxurious apartments
Take beltway to Mormon Temple	Go north on beltway to Michigan Street
Ideal for Physically Fit	All units accessible for disabled
Walking distance to subway	Convenient to subway

## ENFORCEMENT AND PENALTIES

The IFHA is enforced by the processing of complaints filed by individuals, groups, the director or deputy director of the ICRC.

A complainant has 365 days from the alleged discrimination in which to file a complaint under the IFHA or the substantially similar federal act with ICRC or HUD. ICRC investigators conduct a comprehensive and objective investigation. The Alternative Dispute Resolution Unit of the ICRC concurrently attempts to conciliate complaints.

Under the IFHA, a person has the right to file a private civil action whether or not a complaint has been filed with the ICRC. However, a private suit may not be filed after the ICRC has issued a finding of reasonable cause and a hearing has commenced in an administrative tribunal on the record.

If a finding of reasonable cause is issued by the ICRC, the parties have the option of having the case decided in a state court or before an administrative law judge. This forum election must occur within twenty days after the finding of reasonable cause.

As a remedy for discriminatory behavior under the IFHA, an administrative tribunal may award actual damages, which include damages for emotional distress, attorney's fees, costs and injunctive or equitable relief. In addition the administrative tribunal may assess a civil penalty of up to \$10,000.00 for the first finding of a discriminatory housing practice; \$25,000.00 for the second violation during the preceding five years, and \$50,000.00 where the respondent has committed two or more violations during the preceding seven years.

As a remedy for discriminatory behavior under the IFHA, a state court may award equitable relief, actual and punitive damages, attorney's fees and costs.

In pattern or practice cases and cases of particular importance brought by the ICRC, a state court may award equitable relief, monetary damages, attorney fees and costs and assess a civil penalty against the respondent in an amount not exceeding \$50,000.00 for a first violation or \$100,000.00 for any subsequent violation.

## ADVERTISER CHECKLIST

YES NO

- |                          |                          |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | 1. Are your ads free of words, phrases, symbols or visual aids which indicate or convey any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin?          |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. Are the directions used in the ads free of reference to any landmarks or an area, which could imply an unlawful discriminatory preference?   |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. If the ad contains discounts or promotions, have you eliminated unlawful discriminatory preference?  |
| <input type="checkbox"/> | <input type="checkbox"/> | 4. Are logos used in the ads (e.g. complex, management company) free of unlawful discriminatory preference? Are Equal Housing logos used properly?  |
| <input type="checkbox"/> | <input type="checkbox"/> | 5. Do the ads use models and model graphics in a non-discriminatory way? (for one-shot advertising such as a brochure or billboard, look at the brochure or billboard alone; otherwise look at the overall advertising campaign.) |
| <input type="checkbox"/> | <input type="checkbox"/> | (a) Are both sexes adequately represented?  |
| <input type="checkbox"/> | <input type="checkbox"/> | (b) Are children adequately represented? (does not apply if housing is exempt from familial portions of the Fair Housing Act as "housing for older persons.")   |
| <input type="checkbox"/> | <input type="checkbox"/> | (c) Are minority populations represented in reasonable proportion to their population in the metropolitan area (not the housing itself or the suburban area)?   |
| <input type="checkbox"/> | <input type="checkbox"/> | (d) Are the model and model graphics clearly definable as representing minority and majority populations, and are the minorities being used in equal social settings?   |
| <input type="checkbox"/> | <input type="checkbox"/> | (e) Are models or model graphics of children and minorities being used for all and not just some properties advertised?   |
| <input type="checkbox"/> | <input type="checkbox"/> | 6. If the ad is printed, has the publisher printed the "Publisher's Notice" at the beginning of the real estate advertising section?  |
| <input type="checkbox"/> | <input type="checkbox"/> | 7. Is an equal housing opportunity logo, statement or slogan, as appropriate, being used in connection with the advertising?  |
| <input type="checkbox"/> | <input type="checkbox"/> | 8. Are displays or announcements being used properly at all sales offices?  |
| <input type="checkbox"/> | <input type="checkbox"/> | 9. If appropriate to the metropolitan area, are you placing ads in non-English language media?  |
| <input type="checkbox"/> | <input type="checkbox"/> | 10. Is the distribution of your advertising campaign (including brochures, flyers, billboards, mailings, radio ads, newspaper ads and publication ads) reaching the protected classes?  |

*If your answer to each of these questions is "Yes," then your advertising probably complies with the Fair Housing Act. However, this list is suggestive only and is not intended to serve as a substitute for obtaining your own legal advice on compliance with the Indiana or federal Fair Housing Act.*

# Fair Housing Act

## Sample Advertising Policy

Your newspaper should adopt and implement this sample policy or one substantially like it as part of your compliance requirements. Copies on your letterhead should be distributed to all staff members, posted with other government notices in your office, and be available to the public.

### POLICY

#### *Fair Housing Laws*

The Indiana Fair Housing Act, the federal Fair Housing Act and the Indiana Civil Rights Law prohibit discrimination in the sale, rental, leasing and financing of housing, as well as discriminatory advertising, on the basis of RACE, SEX, COLOR, RELIGION, NATIONAL ORIGIN, MENTAL or PHYSICAL HANDICAP or FAMILIAL STATUS. (Local jurisdictions may also have specific additional regulations.)

Fair housing laws cover any potential or actual sale, lease, rental, eviction, price, terms, privileges or any service in relation to the sale or use of housing. They not only prohibit advertisements that clearly restrict access to housing based on the protected categories, but also prohibit advertisements that indicate a preference for or against a person based on a protected category. In particular circumstances, use of colloquialisms, symbols or directions to real estate for sale or rent may indicate a discriminatory preference.

It is the intent and goal of this newspaper to have each advertiser who wishes to place a covered advertisement in the newspaper comply with the fair housing laws. Any advertisement that is perceived to contain language contrary to these laws will be rejected or changed to remove the offending reference. There may be situations where it is not clear whether particular language is objectionable. Such advertisements should be referred to a supervisor for consideration and determination. Under certain circumstances, advertisers may claim that because of the nature of the housing being advertised, they are not subject to certain fair housing laws. Such claims are irrelevant for purposes of considering advertisements for publication in this newspaper. Every housing advertisement published in this newspaper is subject to the Indiana Fair Housing Act and the federal Fair Housing Act.

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Publisher

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Date

## **Fair Housing Act Sample Correction Letter**

*Send this letter along with a copy of the Indiana Fair Housing Act advertising brochure to an advertiser if you discover after the fact you have published an advertisement that contains a violation of Indiana Fair Housing Act and federal Fair Housing Act regulations.*

### **Produce on your newspaper's letterhead**

Dear Advertiser:

Recently you ran an advertisement (copy enclosed or attached) in our newspaper which may have violated provisions of the Indiana Fair Housing Act and federal Fair Housing Act advertising regulations enforced by the Indiana Civil Rights Commission and the United States Department of Housing and Urban Development.

Our newspaper has pledged to uphold both the spirit and letter of the fair housing laws. I've attached a copy of our policy statement.

I'm sure you also wish to comply with the law to avoid the possibility of fines that could reach \$10,000 or more in the first instance. I'm enclosing a brief brochure that summarizes the law.

I'd be happy to answer any questions you have or to provide further information. We value you as a customer and hope you continue to advertise in our newspaper.

Sincerely,

Publisher

# Fair Housing Act

## Senior Housing Exception

### Advertising Form

*Form to be filed at the newspaper by owners/operators of housing claimed to be exempt by meeting requirements for housing for older persons.*

We certify that we have met the necessary requirement(s) for exemption for housing for older persons for the listed complex(es) in accordance with the Indiana and federal Fair Housing Act. We understand that the statutes specifically state this housing be (circle those which apply to your property; to be exempt, property must meet one of these criteria):

1. Intended for and 100 percent occupied by persons 62 years of age or older; or
2. Intended and operated for occupancy by at least one person 55 years of age or older where at least 80 percent of the units are occupied by at least one such person and where there is the existence of "significant facilities and services specifically designed to meet the physical and social needs for older persons."
3. Designed and operated to assist the elderly under state or federal programs.

Name of property: \_\_\_\_\_

Address of property: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

Signed: \_\_\_\_\_

Print name here: \_\_\_\_\_

Signer's address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

Signer's phone: \_\_\_\_\_

Legal owner(s) of the property are: \_\_\_\_\_

Name and address of owner(s) or chief executive officer, if using corporate name:

\_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

## Fair Housing Act reference card

*This page is designed to help guide individuals editing copy for housing advertisements to avoid violating the Indiana and federal Fair Housing Act. This is not intended as a substitute for legal advice nor to provide a defense in the event of a charge of discrimination arising from a specific incident. However, the language set forth should assist anyone in creating an inclusive, nondiscriminatory advertisement.*

### QUESTIONABLE OR PROHIBITED

No children

Walking distance to subway

Ideal community for active and physically fit

Neighborhood for professionals

Not handicap accessible

Prefer bright, healthy persons to apply

Take Beltway to Mormon Temple

No alcoholics

No persons infected with AIDS need apply

Adults only

Great apartment for singles

St. Michael's parish

Near churches

Private and exclusive community

Children allowed on first floor only

Perfect for empty-nesters

For persons capable of living independently

Perfect starter home for newlyweds

Perfect for single female

Great home in Polish neighborhood

Interracial neighborhood

Surround yourself with Christian neighbors

No pets

Family sections available

English speakers only

Mature persons

Mother-in-law apartment

No SSI

Non-smokers only

Handyman's dream

No unemployed

No seasonal workers

### PREFERRED

Bring your kids

Convenient to subway

Persons with disabilities given priority

Luxurious apartments

Apartments with wheelchair ramp on first floor

Housing for persons with mental disabilities

Go north on Beltway to Oak Street

No drinking

Inclusive housing

Elderly person for apartment in retirement community

Enjoy the tennis court, pool, golf course and jogging trail

Downtown area

Near places of worship

Quiet, wooded setting

Play area

Single family homes

Accessible

Small home with lots of charm

Great apartment

Centrally located

All welcome

Large community

Service animals only

Families welcome

All welcome

All ages welcome

Extra apartment

Verifiable income

No smoking

Fixer-upper

Credit check required

Domestic quarters



*This guide to provisions of the Indiana Fair Housing Act and federal Fair Housing Act was jointly produced by the Indiana Civil Rights Commission and the Hoosier State Press Association.*

*While not intended as a substitute for legal advice, the language set forth should assist anyone in creating an inclusive, nondiscriminatory advertisement.*

***If you have questions concerning the Fair Housing Act, following are contacts who can assist you:***

Hoosier State Press Association  
One Virginia Ave., Suite 701  
Indianapolis, IN 46204  
(317) 624-4427  
FAX: (317) 624-4428  
skey@hspa.com  
www.hspa.com

Indiana Civil Rights Commission  
Indiana Government Center North  
100 N. Senate Ave., Room N103  
Indianapolis, IN 46204-2255  
(800) 628-2909 or  
(317) 232-2600  
FAX: (317) 232-6580  
www.in.gov/icrc/

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